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DOCKET NO. 1566

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ATTEST  
 FOR THE JUDICIAL PANEL ON  
 MULTIDISTRICT LITIGATION

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION  
 IN RE WESTERN STATES WHOLESALE NATURAL GAS ANTITRUST  
 LITIGATION

BY \_\_\_\_\_ DEPUTY  
 CLERK U.S. DISTRICT COURT  
 DISTRICT OF NEVADA

*Samuel D. Leggett, et al. v. Duke Energy Corp., et al.*, W.D. Tennessee, C.A. No. 2:05-2177

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.  
 LOWELL JENSEN, J. FREDERICK MOTZ,\* ROBERT L. MILLER, JR.,  
 KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE  
 PANEL**

### TRANSFER ORDER

Before the Panel is a motion in one Western District of Tennessee action (*Leggett*) brought, pursuant to 28 U.S.C. § 1407, by six of the action's defendants: Reliant Energy Services, Inc., Dynege Marketing & Trade, The Williams Power Co., Inc., CMS Marketing Services and Trading Co., Duke Energy Trading and Marketing, LLC, and AEP Energy Services, Inc. Movants ask the Panel to transfer *Leggett* to the District of Nevada for inclusion in the MDL-1566 proceedings pending there before Judge Philip M. Pro. Plaintiffs in *Leggett* oppose transfer.

On the basis of the papers filed and hearing session held, the Panel finds that *Leggett* involves common questions of fact with actions in this litigation previously transferred to the District of Nevada, and that transfer of the action to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel is persuaded that transfer of the action is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the District of Nevada was a proper Section 1407 forum for actions brought by persons injured by multiple common defendants' alleged conspiracy to increase the price of natural gas sold in California during 2000 and 2001. *See In re Western States Wholesale Natural Gas Antitrust Litigation*, 290 F.Supp.2d 1376 (J.P.M.L. 2003).

The *Leggett* plaintiffs have not disputed movants' assertion that they are claiming to have been injured by the same alleged conduct and conspiracy that is at the root of the MDL-1566 actions. Rather, plaintiffs' opposition to transfer is predicated solely on their contention that the Panel should provisionally deny the Section 1407 transfer motion in order to permit the Tennessee court to rule on plaintiffs' pending motion to remand *Leggett* to state court. Such a motion, however, if not resolved in the transferor court by the time of Section 1407 transfer, can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

FILED BY

AUG 22 2005

\*Judge Motz took no part in the disposition of this matter.

Thomas M. Gould, Clerk  
 U. S. District Court  
 W. D. OF TN, Memphis

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CV-S-05-1021-PMP-PAL

- 2 -

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the District of Nevada and, with the consent of that court, assigned to the Honorable Philip M. Pro for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

*Wm. Terrell Hodges*

Wm. Terrell Hodges  
Chairman

I hereby attest and certify on 8/19/05  
that the foregoing document is a full, true  
and correct copy of the original on file in my  
legal custody.

CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA

By *H. Walter* Deputy Clerk



**UNITED STATES OF AMERICA**  
**JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**CHAIRMAN:**  
Judge Wm. Terrell Hodges  
United States District Court  
Middle District of Florida

**MEMBERS:**  
Judge John F. Keenan  
United States District Court  
Southern District of New York

Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

**DIRECT REPLY TO COUNSEL/PARTIES OF RECORD**

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Clerk of the Panel  
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U.S. DISTRICT COURT  
DISTRICT OF NEVADA

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August 11, 2005

Lance S. Wilson, Clerk  
Lloyd D. George U.S. Courthouse  
333 Las Vegas Boulevard, South  
Las Vegas, NV 89101

CV-S-05-1021-PMP-PAL

Re: MDL-1566 -- In re Western States Wholesale Natural Gas Antitrust Litigation

*Samuel D. Leggett, et al. v. Duke Energy Corp., et al.*, W.D. Tennessee, C.A. No. 2:05-2177

Dear Mr. Wilson:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Michael J. Beck  
Clerk of the Panel

By:   
Mecca S. Carter  
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Philip M. Pro  
Transferor Judge: Judge Samuel H. Mays, Jr.  
Transferor Clerk: Robert R. Di Trolio

JPML Form 29

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**INVOLVED COUNSEL LIST**

**DOCKET NO. 1566**

**IN RE WESTERN STATES WHOLESALE NATURAL GAS ANTITRUST LITIGATION**

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August 19, 2005

Thomas M. Gould, Clerk of the Court  
Western District of Tennessee  
Room 242, Federal Building  
167 North Main Street  
Memphis, TN 38103

**IN RE: MDL 1566 WESTERN STATES WHOLESALE NATURAL GAS ANTITRUST  
LITIGATION**

Dear Clerk:

Enclosed is a certified copy (or copies) of an order of the Judicial Panel on Multidistrict Litigation directing the transfer of the below referenced civil action(s) to this district under 28 U.S.C. Section 1407.

Please send us your file along with a certified copy of your docket entries. When you send your file, please refer to our civil action number.

<u>TITLE OF CASE</u>	<u>Your Case Number</u>	<u>Our Case Number</u>
Samuel D. Leggett, et al v. Duke Engery Corp., et al	2:05-2177-SHM-sta	CV-S-05-1021-PMP(PAL)

Sincerely,

LANCE S. WILSON, Clerk  
US DISTRICT COURT

Enclosure:

By Grace Walters

cc: Michael Beck, Clerk of the Panel  
(See attorney service list)

Grace Walters, Deputy Clerk

THOMAS M. GOULD  
CLERK U.S. DISTRICT COURT  
W.D. OF TN, MEMPHIS

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## Notice of Distribution

This notice confirms a copy of the document docketed as number 57 in case 2:05-CV-02177 was distributed by fax, mail, or direct printing on August 23, 2005 to the parties listed.

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